

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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RAFAEL GUTIERREZ,

Plaintiff,

20 **CIVIL** 3061 (OTW)

-against-

**JUDGMENT**

KILOLO KIJAKAZI, Commissioner of Social  
Security,

Defendant.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Order dated September 30, 2021, For the reasons announced by the Court on the record on September 30, 2021, Plaintiff's motion for judgment on the pleadings (ECF 31) is **GRANTED** to the extent that it seeks reversal of the Commissioner's decision, but **DENIED** to the extent it seeks remand solely for the calculation of benefits. Defendant's cross-motion for judgment on the pleadings (ECF 29) is **GRANTED** to the extent that is seeks remand for further proceedings pursuant to 42 U.S.C. § 405(g). Upon remand, the Administrative Law Judge shall be directed to take appropriate steps to ensure that, absent a request by Plaintiff for an extension or adjournment, his revised decision is issued within **150** days of this Order. Any administrative appeal shall be completed within **80** days of the filing of the appeal with the Appeals Council. If these deadlines are not met, then Plaintiff shall be entitled to a calculation of benefits for the period of his claimed disability. *See Butts v. Barnhart*, 388 F.3d 377, 387 (2d Cir. 2004); *Ben v. Berryhill*, No. 17-CV-08345 (DCF), 2019 WL 1447892, at \*16 (S.D.N.Y. Mar. 19, 2019).


**Dated:** New York, New York  
September 30, 2021

**RUBY J. KRAJICK**

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Clerk of Court

BY:

  
Deputy Clerk